IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA (Alexandria Division)

MICHELLE LANE, MATTHEW WELLING, AMANDA WELLING, and SECOND AMENDMENT FOUNDATION, INC.,

: Case No. 11-CV-503 GBL/TRJ

Plaintiffs, : MOTION TO SEVER AND

: TRANSFER

:

ERIC HOLDER, Attorney General of the United States, W. STEVEN FLAHERTY, Superintendent, Virginia State Police; and THE DISTRICT OF COLUMBIA,

v.

:

Defendants.

DEFENDANT THE DISTRICT OF COLUMBIA'S MOTION TO SEVER PLAINTIFFS' FIFTH CLAIM AND TO TRANSFER LITIGATION OF PLAINTIFFS' FIFTH CLAIM TO UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Defendant, the District of Columbia ("District"), by and through undersigned counsel, respectfully moves this Court for an Order, pursuant to Fed. R. Civ. P. 21, severing Plaintiffs' sole claim against the District, their Fifth Claim of the Amended Complaint, which presents a constitutional challenge only to District municipal regulations.

The District further moves this Court to transfer that severed Fifth Claim, pursuant to 28 U.S.C. § 1406, to the United States District Court for the District of Columbia. As explained in the District's Memorandum Of Points And Authorities submitted in support of this motion and incorporated herein by reference, this relief is within the Court's sound discretion and the grounds for this motion is that the relief requested would serve the judicially-recognized, strong interest courts have in having local controversies decided at home.

The District's counsel has contacted counsel for each of the other parties herein regarding the relief sought hereby. Counsel for Plaintiffs has advised that Plaintiffs will oppose this motion. Counsel for Defendant Superintendent Flaherty has advised that Superintendent Flaherty consents to the relief sought. Counsel for Attorney General Holder advises that the Attorney General takes no position with regard to this motion.

Dated: July 6, 2011 Respectfully submitted,

/s/ Thomas L. Koger_

Thomas.Koger@dc.gov

THOMAS L. KOGER, VSB No. 40086 Office of the Attorney General for the District of Columbia Assistant Attorney General Equity I Section 441 Fourth Street, N.W., 6th Floor South Washington, D.C. 20001 Telephone: (202) 724-4170 Facsimile: (202) 715-7762

Counsel for Defendant the District of Columbia

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/
Lauren A. Wetzler
Stephen J. Obermeier
Assistant United States Attorney
Justin W. Williams U.S. Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314
Email: lauren.wetzler@usdoj.gov

COUNSEL FOR THE ATTORNEY GENERAL

Catherine Crooks Hill George W. Chabalewski Office of the Attorney General 900 E Main St Richmond, VA 23219 Email: cchill@oag.state.va.us

COUNSEL FOR W. STEVEN FLAHERTY

Alan Gura Gura & Possessky, PLLC 101 N. Columbus Street, Ste. 405 Alexandria, VA 22314 Email: alan@gurapossessky.com

COUNSEL FOR PLAINTIFFS

/s/ Thomas L. Koger
THOMAS L. KOGER, VSB No. 40086
Office of the Attorney General for the
District of Columbia
Assistant Attorney General
Equity I Section
441 Fourth Street, N.W., 6th Floor South
Washington, D.C. 20001
Tel.: (202) 724-4170; Fax: (202) 715-7762
Thomas.Koger@dc.gov

Counsel for Defendant the District of Columbia